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In re Patent Term Extension Application of :
U.S. Patent No. 6,605,599 :
Issue Date: August 12, 2003 : Decision on Petition to
U.S. Application No. 09/084,542 : Stay Grant of Certificate in Patent
PTE Filing Date: November 15, 2007 : Term Extension Application
For: Epothilone Derivatives :
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The above-identified application has been forwarded to the Office of Patent Legal Administration in the United States Patent and Trademark Office (the "Office") for consideration of a petition titled "Petition to Stay Proceedings re: Patent Term Extension Application for U.S. Patent No. 6,650,599 under 37 C.F.R. § 1.182," which was filed on October 23, 2009.

The petition is granted for a period of 6 months from the mailing date of this decision.

Background and Analysis

On April 3, 2006, Petitioner informed the Office that three reissue applications for U.S. Patent No. 6,650,599 had been filed on August 11, 2009, and had been assigned Reissue Application Nos. 12/539,492; 12/539,496 and 12/539,498.

On June 2, 2009, the Food and Drug Administration issued a Final Determination of the regulatory review period.

Petitioner now petitions for a stay of the processing of its PTE application, specifically, a stay of the issuance of the certificate of extension so that prosecution of the reissue application, 12/539,492, can be concluded and the patent reissued, therefore permitting the certificate of extension to be granted on the reissued patent.

The Office analogizes the request made by Petitioner under 37 C.F.R. § 1.182 to requests for staying action in patent applications and for deferring issuance of a patent filed under

37 C.F.R. § 1.103 and 37 C.F.R. § 1.314 respectively. The standard for granting requests under both 37 C.F.R. § 1.103 and 37 C.F.R. § 1.314 is good and sufficient cause. Accordingly, the Office shall apply that same good and sufficient cause standard to the present petition under 37 C.F.R. § 1.182.

Since a stay in the proceedings of the patent term extension application in order to conclude the reissuance of the patent appears to constitute good and sufficient cause, a stay is granted for a time period of 6 months from the mailing date of this decision.

Conclusion

The petition under 37 C.F.R. § 1.182 is granted for a period of 6 months from the mailing date of this decision.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 37 C.F.R. § 1.17(f). The required petition fees have been received for the present petition.

Telephone inquiries with regard to this communication should be directed to Mary C. Till at (571) 272-7755.

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